

REMARKS

Claims 1-35 and 46-50 are currently pending in the Subject Application with claims 1, 10, 18, 26 and 50 being independent claims. Claims 8-9, 16-17, 24-25 and 34-35 are currently withdrawn. Claims 1-7, 10-15, 18-23, 26-33 and 46-50 stand rejected in the Office Action under 35 U.S.C. § 103(a).

Claims 1, 5, 7-10, 13, 15-18, 24-25, 34-35 and 50 are amended herein to recite an acid modified dry-milled "flour" composition. Support for the amendments may be found in paragraph [0021] in the original specification of the Subject Application, which states:


[0021] As used herein the term "dry-milled starch" refers to the flour product of a processed raw grain in the substantial absence of liquid, as compared to the pure starch of a wet milled cereal grain. (Emphasis added).

Applicant submits this after-final Amendment under 37 C.F.R. § 1.116(b)(3) – presenting rejected claims in better form for consideration on appeal. Specifically, the claims which previously recited dry-milled "starch" now recite dry-milled "flour". This Amendment does not add new matter to the Subject Application and does not raise new issues that would require further consideration or search. This Amendment places the Subject Application in better form for appeal by materially reducing and simplifying the issues for appeal.¹ Accordingly, Applicant respectfully requests entry of the present Amendment prior to consideration of the Arguments and Remarks for Pre-appeal Brief Conference.

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¹ See Applicant's Response dated November 14, 2008 and the Arguments and Remarks for Pre-appeal Brief Conference filed concurrently herewith.